

11. Paragraph 2 through 7 of the First Affirmative Defense and paragraphs 8 through 10 of the Second Affirmative Defense are repeated and realleged herein as if set forth in full as part of this Third Affirmative Defense.

12. As a result, there was no insurable interest on Joseph Lisowski's life at the time of Joseph Lisowski's death inuring to the benefit of Defendant Matthew J. Lisowski.

13. As a result, the Cross claim should be dismissed and the balance of the policy proceeds paid to Defendant Joetta Lisowski.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE
DEFENDANT, JOETTA LISOWSKI, RESPECTFULLY
SHOWS AND ALLEGES AS FOLLOWS:

14. Paragraphs 2 through 7 of the First Affirmative Defense, paragraphs 8 through 10 of the Second Affirmative Defense and paragraphs 12 and 13 of the Third Affirmative Defense are repeated and re-alleged herein as if set forth in full as part of this Fourth Affirmative Defense.

15. Upon information and belief, Defendants Marie Lisowski as trustee for the benefit of Matthew J. Lisowski and Matthew J. Lisowski received life insurance proceeds in excess of \$150,000.00 from a policy of insurance on Joseph Lisowski at the time of Joseph Lisowski's death. Said insurance was paid through Joseph Lisowski's former employer, IBM. (Said policy is hereinafter referred to as the "IBM Policy").

16. As a result, Defendants Marie Lisowski and Matthew J. Lisowski are not entitled to the proceeds of the Northwestern Mutual Life Insurance Company policy referenced in the Interpleader Complaint and the Cross claim should be dismissed.

WHEREFORE, it is respectfully requested that the Court dismiss the cross claim, direct the Plaintiff and co-defendant pay to the Defendant reasonable costs, expenses and attorneys fees incurred in defending this action and such other and further relief as to the Court may seem just and proper.

Dated: Yorktown Heights, New York
October 9, 2007



Mitchell P. Lieberman, Esq.
Lieberman & LeBovit
Attorneys for Defendant-Joetta Lisowski
345 Kear St., Suite 210
Yorktown Heights, NY 10598
(914) 962-0400

To: Rivkin Radler, LLP
Norman L. Tolle, Esq.
Attorney for Plaintiff
926 Reckson Plaza
Uniondale, NY 11556

Gellert & Klein
David R. Wise, Esq.
75 Washington Street
Poughkeepsie, NY 12601